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In the
SUPREME COURT OF THE UNITED STATES
October Term, 1977

No.

76-1840

SAM POLUR,

Petitioner,

v.

HONORABLE ROSZELE C. THOMSEN,

Respondent,

and

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MOTION FOR LEAVE TO FILE PETITION
AND PETITION, FOR COMMON LAW WRIT
OF CERTIORARI OR FOR WRIT OF MANDAMUS
TO THE COURT OF APPEALS FOR THE
FOURTH CIRCUIT

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2. Whether the Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the District Court, denying petitioner's petition for a peremptory writ in the nature of mandamus and for a temporary stay, as to which appeal to the Court of Appeals is discretionary with the latter Court, and not a matter of right.

3. Whether this Court should exercise its discretion to issue a common law writ of certiorari or writ of mandamus to the Court of Appeals.

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For the reasons above stated, a Writ of Certiorari or Writ of Mandamus should issue to review the Judgment and opinion of the United States Court of Appeals for the Fourth Circuit, and the Order and Judgment of the United States District Court for the District of Maryland, and for such other further and different relief as to this Court may seem appropriate.

The Petitioner, Sam Polur, respectfully prays for leave to file the within petition and upon granting of such leave, that a writ of certiorari or a writ of mandamus issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered in this proceeding on April 21, 1977 and of the United States District Court for the District of Maryland's Opinion and Order of March 22, 1977.

OPINIONS BELOW

The opinion and order of the Court of Appeals of April 21, 1977 and the Court's Per Curiam opinion and order of March 16, 1977 are unreported and appear in the Appendix hereto. The opinion and order of March 22, 1977, notice of hearing of March 3, 1977 and opinion and order of October 8, 1976 of the said District Court are all unreported and appear in the Appendix herein.

JURISDICTION

The judgment of the Court of Appeals was entered March 16, 1977. A timely motion for rehearing was denied without written opinion April 21, 1977. This Petition was filed within 30 days of that date. This Court's jurisdiction is invoked pursuant to 28 U.S.C., Sections 1254(1) and 1651(a), and Rule 30 of the Rules of this Court.

QUESTIONS PRESENTED

1. Whether this Court has jurisdiction to issue a common law writ of certiorari or writ of mandamus, directed to the Court of Appeals, on the basis that it has abused its discretion in declining to allow an appeal from the judgment of the District Court.

2. Whether the Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the District Court, denying petitioner's petition for a peremptory writ in the nature of mandamus and for a temporary stay, as to which appeal to the Court of Appeals is discretionary with the latter Court, and not a matter of right.

3. Whether this Court should exercise its discretion to issue a common law writ of certiorari or writ of mandamus to the Court of Appeals.

CONSTITUTIONAL PROVISIONS INVOLVED

ARTICLE 1, SECTION 8: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

ARTICLE 11, SECTION 3: He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

ARTICLE 111, SECTION 3: Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them aid and comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt act, or on Confession in open Court.

AMENDMENT 1: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT V: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATUTES INVOLVED

TITLE 18 U.S.C., SECTION 953: Private correspondence with foreign governments.

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

This section shall not abridge the

right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

TITLE 18 U.S.C., SECTION 951: Agents of foreign governments.

Whoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than \$5,000 or imprisoned more than ten years, or both.

TITLE 28, U.S.C., SECTION 1337: Commerce and anti-trust regulations.

The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

TITLE 15, U.S.C., SECTION 2: Monopolizing trade a misdemeanor; penalty.

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty

thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

TITLE 18, U.S.C., SECTION 371: Conspiracy to commit offenses or to defraud United States.

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

TITLE 26, SECTION 7201, INTERNAL REVENUE CODE OF 1954: Attempt to evade or defeat tax.

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

TITLE 22, SECTIONS 611-621: FOREIGN AGENTS AND PROPAGANDA (Reprinted in full Appendix "A", infra.)

TITLE 15, U.S.C., SECTION 1: Trusts, etc., in restraint of trade illegal; exception of resale price agreements; penalty.

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal: Provided, That nothing contained in sections 1 to 7 of this title shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trademark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 45 of this title; Provided further, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or

between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy declared by sections 1 to 7 of this title to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

STATEMENT OF THE CASE

On October 10, 1973, as part of a "plea bargain" with Federal prosecutors, Spiro T. Agnew resigned from the office of Vice President of the United States. Concurrently therewith, he pleaded Nolo Contendere to the first count of the felony of Income Tax Evasion, which was part of a Multiple Count Criminal Information, in satisfaction of the entire Criminal information. The Court, Honorable Walter E. Hoffman presiding, thereupon placed the defendant on three years' probation upon acceptance of the plea. The Court expressly admonished the defendant "not to violate any state or federal law" during pendency of the probationary period.

Petitioner herein duly served and filed a complaint on September 30, 1976, seeking monetary damages against Spiro T. Agnew. Thereafter, on October 5, 1976 he sought an Order by way of a proposed Order to

Show Cause, submitted to Senior Judge Thomsen, Why Spiro T. Agnew Should Not Have His Probation Revoked for Violation of the aforesaid Court's Order (App."B", Infra). Annexed thereto was an Attorney's Affirmation and copy of the said complaint.

Notably, plaintiff had carefully set forth for the District Court below the imperative necessity of proceeding as the initiating party with respect to the proposed Order to Show Cause. The precision of that statement was never challenged. Plaintiff is fully aware he stated those facts under oath and pursuant to penalties for perjury. That significant disclosure follows:

"6. That during the extensive research required before filing and serving of the annexed Complaint and attached Exhibits thereto, your affirmant became aware of and believes he learned in small part of the extensive alleged activities of Spiro T. Agnew contemporaneous with and subsequent to his Term of Office as Vice President of the United States, for and on behalf of Foreign Powers, primarily those of the member-Nations of the Organization of Petroleum Exporting Countries and the United Arab Republic.

"7. That your affirmant believes he

is duty bound to reveal to this Court the many violations he believes he has discovered to have been committed by Spiro T. Agnew, as a result of his massive research in preparation for this within lawsuit; and that as an Officer of the Court he has no choice but to bring these multiple violations he has believed he has discovered to the Court's purview so that appropriate legal sanctions may be applied for the alleged violations of probation aforesaid, as the Court deems fit and proper in the premises.

"8. That your affirmant relies on the law of the case he herewith sets forth below and the facts he believes he has uncovered, in furtherance of his belief that the allegations raised in the annexed Order to Show Cause are valid and subsisting.

"9. Application is made for an Order to Show Cause in lieu of Notice of Motion and Motion because in no other way can the issue of violations of the terms of Spiro T. Agnew's probation be timely determined. This proposed Order to Show Cause has been made forthwith upon discovery by your affirmant of the said multiple grave violations as alleged."

A hearing was duly held on October 8,

1976, before the Honorable Roszele C. Thomsen, at which three representatives of the Department of Justice were present. A formal Order (See, App.A Infra) was duly handed down based on that Order to Show Cause hearing aforesaid, although the Court refused to sign that motion. Its critical provisions substantially were as follows:

a. The Court declined to revoke the probation of Spiro T. Agnew, which was allowed to thereby expire October 10, 1976.

b. The Court retained jurisdiction over Spiro T. Agnew's probation for another two years beyond the October 10, 1976 expiration date.

c. The United States' Attorney's Office, through the three members present, to wit, Paul E. Kramer, Deputy United States Attorney for Maryland, Patrick Glyn and Larry Gregg of the Justice Department's Criminal Division in Washington, D.C.. All were duly directed by the Court to "investigate" the serious charges made by Sam Polur and to report back to the Court In Camera as to their findings, at which time the Court would consider taking whatever action he deemed appropriate.

A Notice of Appeal was duly filed

with the Clerk of the Court the same day, October 8, 1976 from the above-cited Order and proceedings had therein, and from each and every ruling of the Court, adverse to the motion and the hearing had thereon.

On February 22, 1977, the District Court received the "report" duly ordered from the Justice Department on October 8, 1976. (See App.B-1, infra). The Court thereupon notified petitioner, Mr. Agnew's Counsel, the Justice Department and the Probation Office of the Baltimore District of a Hearing on March 14, 1977. This was allegedly to be for the purpose of deciding whether any further proceeding with respect to possible revocation of Spiro T. Agnew's probation was warranted.

The Department of Justice "report" revealingly showed the Justice Department's fixed resolve not to comply with the Order to "investigate". The heart of the report hereinbelow ineluctibly points up the evasiveness of the "investigation" as ordered by the Court:

With regard to the allegation that Mr. Agnew has violated the Foreign Agents Registration Act, 22 U.S.C. section 691, et seq. by his failure to register, Department of Justice Attorneys met on January 14, 1977,

with Mr. Agnew, his attorney, and the Secretary-Treasurer of Education for Democracy, Inc., to determine whether the corporation and/or Mr. Agnew had incurred an obligation to register under the Act. After review of the corporation's correspondence files, minutes of corporate meetings, check, bank statements, membership and contribution lists, and other financial records, it was determined, that there was no reason to believe that Mr. Agnew, through Education for Democracy, Inc., has acted on behalf of or in the interest of any foreign principal in violation of the Act. (emphasis added) (sic!)

In view of the clear evidence there had been no subpoena of any record whatsoever from either defendant, and that surely no testimony whatsoever was adduced from Mr. Agnew, and that your petitioner was not apprised of this meeting nor subpoenaed for his testimony, your petitioner on March 11, 1977 moved the Court of Appeals for a Peremptory Writ in the Nature of Mandamus and a Temporary Stay of the Proceedings to be held March 14th. The grounds were usurpation by the District Court of judicial jurisdiction it unlawfully exercised, more time needed to investigate and obtain more proofs by both deponent and the Department of Justice.

The hearing, nonetheless, was held on

that day, March 14, but the District Court reserved its ruling thereon until the Court of Appeals acted on the petition. On March 16, 1977 the petition was denied in a Per Curiam opinion and order (App.A, Infra).

Although time for petitioning for a rehearing of that petition was still pending, the District Court, nonetheless, on March 22, 1977, duly had filed and served an order which concluded: (See, App.A Infra)

...on the basis of the material submitted in this proceeding, that it should follow the recommendations of the Department of Justice and the Probation Office, and should not require Agnew to show cause why his probation should not be revoked.

The order denying that petition was rendered and duly filed April 21, 1977. (See, App.A, Infra)

The proposed Order to Show Cause herein, fully set forth in the Appendix infra, was replete with factual and legal touchstones for a Court to entertain a hearing on the issues propounded therein. Illustratively, page "7", for sequential clarity, is hereinbelow set forth:

SHOW CAUSE, why this Court should not order Spiro T. Agnew to Cease and Desist from his alleged secret meetings with foreign potentates; to Cease and Desist from obtaining monies, favors, commercial profits, any and all business advantages of any nature or manner what-

soever from any of the aforesaid Arab rulers, to wit, the King of Morocco, the King of Saudi Arabia, the Crown Prince of Saudi Arabia and any of the said Monarchs' agents, consorts, servants, associates, or underlings or from any members, agent, associate of, employee, contractor for or on behalf of any of the other member-Nations of the Organization of Petroleum Exporting Countries or of the United Arab Republic, in order to protect the security and safety of the United States of America; and to

SHOW CAUSE, why the above-cited moral delinquency found as a matter of law to adhere to the said Spiro T. Agnew, a Disbarred Attorney upon explicit findings of unworthiness by the highest Court of his State, to wit the Court of Appeals of Maryland, and from which Order and Judgment the said Spiro T. Agnew has never appealed, should not be a total bar to his dealing with impunity or pursuant to exemption in advocating the interests of foreign nations in conflict with the Constitution and Laws of the United States of America without full disclosure of his motives and the means furnished for his advocacy; and to

SHOW CAUSE, why Spiro T. Agnew retained such valuable gifts as cited hereinabove, and to tell this Court what other gifts, emoluments, monies, gratuities, favors, business interests were solicited, bargained

for, received, and or bartered for services rendered or to be rendered for and on behalf of said Arab Potentates, the Organization of Petroleum Exporting Countries and the United Arab Republic during and subsequent to his said Term of Office as Vice President of the United States and subsequent to his resignation upon his plea to a Felony charge of Income Tax Evasion as and for the "plea bargain" to have same suffice for the entire multi-count Criminal Information then and there outstanding against Spiro T. Agnew; and to ...

Petitioner, as a party Qui Tam and Quia Timet, respectfully, since inception of his participation herein, alleged the Court and the parties appearing at the Hearing scheduled for March 14, 1977 at the Baltimore District Court would do so although jurisdiction would clearly be lacking. To "avoid later intricacies and a Judicial snarl," the Petition sought by him in the Court of Appeals with respect to that Hearing was for a Temporary Stay. The predicate for the Hearing - the "Report" of February 16, 1977 (AppB, Infra) was alleged to be invalid as a matter of law and of Constitutional limitations. It attempted to arrogate jurisdiction through judicial powers not possessed by the Executive Branch of our Government. That submission under the circumstances, it was alleged, was an impertinence. The ratio decendi for that Justice Department intru-

sion into the judicial sphere was the cited District Court order of October 8, 1976 to "investigate", not to render judicial opinions. In lieu of a straightforward compliance with that order of the Court, the Justice Department Attorneys chose to thwart Judge Thomsen's directives.

Among the issues raised at that October 8, 1976 Hearing was that Spiro T. Agnew has nowhere stated under oath, nor had to prove to anyone, that the priceless gifts he had received in 1971 while serving as Vice President of the United States of America were all finally turned over to the State Department on April 1, 1974, more than three years following their receipt; as mandated by the Foreign Gifts and Decorations Act of 1966, 22 U.S.C., sections 804, et seq., Nor that these were the only lawful or unlawful gifts he had converted and fraudulently concealed from the Court upon his sentencing on October 10, 1973, when he was duly admonished "to not violate the laws of the United States or any State."

Though fully aware of these grave charges, and particularly, the direct issue posed of National Security and our survival as a Nation implicitly threatened by this morally-adjudicated delinquent dealing with impunity in advocating the interests of foreign nations in conflict with the Constitution and Laws

of the United States without fullest disclosure of his, Spiro T. Agnew's motives and the means furnished for his advocacy - nonetheless, the Department of Justice Attorneys have concededly not even questioned Spiro T. Agnew nor "investigated" him and his activities as requested and ordered by the District Court.

It was this lapse, together with the stated impertinence in attempting to arrogate jurisdiction through judicial powers not possessed by the Executive Branch of our Government that brought the petition and petition for rehearing before the Court of Appeals. The proposed Hearing, it was respectfully submitted, because of the nature of the alleged response as furnished by the Department of Justice - and upon which the Hearing was premised, created a legal nullity. The grounds were set forth with particularity.

The petition was submitted for a peremptory writ in the nature of mandamus and for a temporary stay of all Court and related proceedings - and duly renewed as aforesaid for a re-hearing when that petition was denied by the Court of Appeals. All pending the Department of Justice being made to truly investigate the questions raised therein; issues which had such a direct and immediate effect on the inherent sovereignty of the United States, the integrity of its

courts and its entire criminal justice system. Alternatively, the Court of Appeals was urged to grant the writ and temporary stay until your petitioner could proceed in an orderly and methodical manner in Discovery through depositions and related procedures authorized by the Federal Rules of Civil Procedure; and until such time as this orderly and methodical discovery and depositions and related procedures would be effectuated, the District Court not be permitted to hold the contemplated hearing in that its premise was basically a nullity under the stated circumstances.

A synopsis of the grave issues posed at the October 8, 1976 Hearing aforesaid should show beyond peradventure why the District Court is in grievous error for not conducting the Probation Revocation Hearing. These were all before the Court, as found in the submitted proposed Order to Show Cause and the verified Complaint. Defendant Spiro T. Agnew had been accused of: -

- * Overt violations of the Foreign Agents and Propaganda Statute, sections 611-621 of Title 22 of the United States Code.

- * Civil and criminal violations of the Sherman and Clayton Anti-Trust Acts, under section 15 of Title 15 of the United States Code and section 4 of the

Clayton Act, as amended, of on ongoing nature.

* Violation of his fiduciary duties to the public and to the Government as Vice President of the United States of America and as a former Vice President of the United States, while on probation from October 10, 1973 to the present; and all in derogation of the Constitution of the United States.

* Violation of section 371 of Title 18 of the United States Code, being part of the Laws relating to Conspiracy to Commit Offenses or Defraud the United States, upon the ground that said acts of Spiro T. Agnew and his alleged co-conspirator, Education for Democracy, Inc., jointly and severally, and the said acts of Spiro T. Agnew, together in combination with one or more persons, at present unknown to your petitioner, acted at all times jointly and in concert with others to defraud the United States and the citizens thereof, including Petitioner with proximate damage to his pecuniary interest, and all during the terms and the time of his said probation from October 10, 1973 to the present.

* Engaging in a calculated campaign to further the Oil Embargo and the Blacklist, as imposed upon the United States of America and its possessions by the OPEC and the UAR, as well as having done

same in conspiracy with the said Education for Democracy, Inc.

* Withholding relevant information in the premises, constituting a continuing breach of his fiduciary duty, while Vice President of the United States of America; and all of which constitutes to petitioner and to the public and the Government of the United States a denial of due process and equal protection of the laws under the Fifth Amendment with respect to the correlative rights to Freedom of Expression under the First Amendment to the Constitution of the United States.

* Accretion of financial and pecuniary gain from said foreign potentates, OPEC and the UAR, which must remain highly suspect by any reasonable standard.

* Engaging in a willful, illegal and criminal course of conduct, inimical to the United States and its citizens.

Defendant-Respondent Spiro T. Agnew has also been accused of: -

* Receiving exceedingly expensive jewelry and related gifts from a number of foreign potentates from the Middle East, including King Faisal of Saudi Arabia, the King of Morocco and the Crown Prince of Saudi Arabia, inter alia, and contrary to the statutes and laws so

providing, failed immediately to turn them over to the Department of State Chief of Protocol as mandated.

* Conspiring together with Education for Democracy, Inc., continuously at all times material to this complaint, to "repay" and to further "earn" and receive substantial recompense for the aforesaid; and other valuable gifts, emoluments, monies and things of great value from the aforesaid leaders of OPFC and the UAR, and others similarly situate, at this time unknown to petitioner, and all contrary to the economic, political, military and industrial interest of the United States of America, and its citizenry who have an abiding interest in seeing that their leaders are not bribed, "bought" or traduced through the giving and acceptance of valuable gifts, emoluments and other things of value financially.

* Failure to disclose to plaintiff and to the American public information in the premises not specifically exempt pursuant to provisions of sections 552 and 552a of Title 5 of the United States Code.

* Soliciting, receiving and accepting such valuable gifts, emoluments and jewelry as aforesaid, during his Term in Office as Vice President of the United States of America, as aforesaid,

and contrary to the Laws and Statutes and the individual defendant's Oath of Office as therein provided; and inimical to the moral, ethical and decent concepts upon which our Nation and its leadership are presumably firmly founded. Spiro T. Agnew thereby, at all times and continuously, is permitting himself to be reasonably vulnerable to blackmail, extortion and other related onslaughts from those secret benefactors and foreign potentates, if the individual defendant's stated political positions during, or subsequent to, his said Term of Office as the second highest elected official in the land were to vary from those of his foreign potentate donors, the rulers of the OPEC and the UAR and the member-Nations of the organization.

And it was crucial by any reasonable standard of law and equity or minimal Constitutional safeguards that these issues be confronted through testimony under oath and cross-examination of the most searching nature.

That was clearly not forthcoming at the proposed - and executed - hearing of March 14, 1977. A ruling, as seen, was speedily held. Nonetheless, lack of jurisdiction, aforesaid, as timely alleged and at the critical period before it was even held, should vitiate

this unlawful ruling; a ruling clearly in derogation of the rule of law and in apposition to fundamental Constitutional safeguards.

The within petition for a writ of certiorari or mandamus directed to Hon. Roszele C. Thomsen, Senior Judge of the District Court and to the Court of Appeals for the Fourth Circuit, respectfully urges this Court to reverse that Order and Ruling of the Courts below, as respectively rendered, and to grant petitioner the relief prayed for in his within petition.

REASONS FOR GRANTING THE WRIT

1. The Court of Appeals overlooked and misapprehended controlling rules of law and constitutional issues in arriving at their Order and Judgment herein affirming their refusal to grant a peremptory writ in the nature of mandamus and a temporary stay.

2. The District Court below arrogated unto itself the unlawful jurisdiction to rule on the very issue timely appealed on October 8, 1976 - and duly accepted for appeal by the Court of Appeals on October 8, 1976 - in violation of Court rulings and Constitutional limitations.

3. The District Court has failed to counter the clear defiance by the Depart-

ment of Justice to "investigate" petitioner's "grave charges" lodged against Spiro T. Agnew; thus providing preferential standards violative of Due Process and Equal Protection of Law to all others similarly situate; and the Court of Appeals has not ordered the District Court to protect its own integrity.

4. Instructively the Department of Justice entirely failed to even "go through the motions" of interrogating, investigating or otherwise being concerned with the Probationer, Spiro T. Agnew!

5. The issues raised hereinbelow are a separable controversy, invested with finality, and of magnitude in terms of Constitutional significance - and at all times collateral to the issue of the mere recovery of monetary damages; and, hence, should have been heard by the Court of Appeals and ruled upon.

6. Leading Circuits have deemed matters such as the case hereinbelow clearly a separable legal matter and subject to the rule of finality and full appellate review; that includes the Court of Appeals for the Fourth Circuit.

7. Where there was no probation supervision and the United States District Court authorized appearances by private parties to probation revocation hearing and hearing to determine whether there

should be an Order to Show Cause signed by that Tribunal - to put in issue whether the probation should be revoked -- and arguments by Attorney pro se and Attorney putting in "special appearance" for probationer occur, there is a waiver of all objections and the hearing has been duly held on revocation of probation; and the Court of Appeals should have enforced petitioner's rights in the premises thereto and therein, under all the circumstances therein subsisting.

8. Constitutional questions of great magnitude, affecting the ultimate security and perhaps the sovereign integrity of our Nation have been created by the failure of the District Court to follow Due Process and Equal Protection of the Law in the premises, as more fully set forth by the briefs and exhibits duly served and filed in the Courts below; all of which are herein relied upon as controlling rules of legal and Constitutional import warranting granting of the petition herein sought.

9. Where the Court of Appeals hereinbelow has rendered a decision in conflict with the decisions of other Courts of Appeals on like matters of appealability and review, and has decided the Federal questions presented in a way to conflict with applicable decisions of this Court, and has so far departed from

the accepted and usual course of judicial proceedings and so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

The law of the case is equally persuasive.

Leading Circuits have deemed matters such as the case herein clearly a separable and collateral legal issue such as to be subject to full appellate review. The Second Circuit, in a per curiam opinion in IBM v. Edelstein, et ano., 526 F.2d 37, 40 stated, in a petition for a writ of mandamus, the legal rule which makes this petition appropriate:

Moreover, appellate review will be defeated if the writ does not issue, for petitioner's claims are not of the kind that will be merged into any final judgment and thus capable of correction on appeal.

An order granting a motion to disqualify counsel is a final judgment under the collateral order doctrine of Cohen v. Beneficial Industrial Loan Corp., this Court's landmark ruling in this area. (337 U.S. 541) See, also, Hull v. Celanese Corp., 513 F.2d 568, 570-571 (2d Cir. 1975) and the Fourth Circuit's own reasoned opinions, in conformance with

that guide in United States v. Hankish, 462 F.2d 316, 318 (1972), and in United States v. Landsdown, 460 F.2d 164, 172 where the Court creatively ruled in this area. See, also, Yablonski v. U.M.W., 147 U.S.App.D.C.193, 454 F.2d 1036, 1038 and n.9 (1971), cert. den. 406 U.S. 906; Andrews v. United States, 373 U.S. 334, 338-339 (1963); United States v. Hayman, 342 U.S. 205 (1963); In Re Yarn Processing Patent Validity Litigation, 530 F.2d 83 (5 Cir. 1976), at p. 85.

In Lloyd v. Lawrence, 60 F.R.D. 116, at p. 118 (USDC S.D. Tex - 1973), the rule was luminously set down: -

When an appeal is taken from a decision of the district court, the jurisdiction of the district court terminates. That of the Court of Appeals attaches upon the filing of an adequate notice of appeal. Fed.R.App.P. 4(a) ... Thereafter, the district court has no jurisdiction and accordingly no control or power over the litigants or the case except to aid the appeal or correct clerical errors. Fed.R.App.P. 7,8,10 and 11; Fed.R.Civ.P. 60(a); Walleck v. Hudspeth, 128 F.2d 343 (10th Cir.1942); 9 Moore's Federal Practice & Procedure §203.11.

The jurisdiction of the court of appeals does not terminate upon the issuance of an opinion by that court. Jurisdiction remains in that court for an additional 21 days. Fed.R.App.P. 41. Only after the expiration of this period and by the issuance of the mandate does the jurisdiction over the case move from the court of appeals back to the district court.

During the interim between the filing of the notice of appeal and the issuance of the mandate, the district court is powerless to take any action in a case except for the limited purposes of aiding the appeal or correcting errors. ... Any other action taken by the district court during such interim is null, void and of no force or effect for any purpose. ... (emphasis added)

Surely, it would be difficult to find a more perceptive and authoritative statement of the law with respect to this case. These undisputed facts clearly mandate this petition being granted and, upon review, the District Court below held to have violated the statutes and the Constitutional mandate herein. As readily seen, the tests were met:

* Filing of a timely and sufficient and adequate Notice of Appeal.

* That act immediately transferred jurisdiction from the district court to the court of appeals with respect to any matter subsumed in that appeal.

* The most fundamental issue on appeal before the United States Court of Appeals was that of a Hearing to be mandated on possible revocation of probation for Spiro T. Agnew. But the District Court, despite the clearest knowledge and awareness of that issue on appeal, on March 3, 1977 notified all parties a hearing would be held March 14, 1977 to determine whether a probation revocation hearing should be held. Thereupon the hearing was held pursuant to that written notice. On March 22, 1977 the District Court filed its written opinion that, premised on the hearing and the "material submitted in this proceeding", that it would not require Spiro T. Agnew to show cause why his probation should **not be** revoked. The Court expressly stated it "should follow the recommendations of the Department of Justice and the Probation Office."

* The Transcript of that hearing** shows it would be difficult to find a more slavish and legally meaningless recommendation of the Probation Office. That farcical "recommendation" merely was that the Probation Office had read

* See, App. B, infra.

** See, App. B, infra.

the Department of Justice "Report" and would, effectively, go along with it. The rubber stamp acceptance, without more, removed the Probation Office from its statutory role of independence and fearless advocate of truth to that of a legal "Charley McCarthy" doing the bidding of a Court determined to arrive at its pre-conceptions to salvage a Faithless Executive. The ruling, of course, was upon the precise issue then on appeal, inter alia, as to whether Spiro T. Agnew should have his probation revoked for violation of the Foreign Gifts and Decorations Act of 1966 and Fraudulent Concealment of the expensive gifts from Arab Potentates received while he was Vice President of the United States in 1971, AND THE OTHER CITED REASONS FOR SAME!*

* The obvious defects in the afore-said Hearing of March 14, 1977 were highlighted by the overriding fact that the Hearing was not in aid of the appeal nor was it to correct clerical errors.

Obvious defects in Constitutional and statutory terms of that March 14, 1977 Hearing being held at all was clearly not apprehended by the distinguished Court of Appeals. That was the fundamental defect, not merely whether the Court's ruling thereon was "interlocutory" and hence, allegedly, not appealable. Additionally, the Hearing was premised on a Department of Justice

* See, App. B, infra, for October 8, 1976 Transcript of Hearing.

"Report" which clearly violated the Separation of Powers doctrine in that it usurped Judicial prerogatives and Constitutional responsibilities and, in violence to the Constitution, wrested the Dispensing Power from the Judiciary.

Other cases which are in accord with the general rule that the District Court was divested of jurisdiction in the premises upon filing of the timely and sufficient notice of appeal to the Court of Appeals, include: G & M, Inc. v. Newbern, 488 F.2d 742, 746; Maloney v. Spencer, 9 Cir., 1948, 170 F.2d 231; Radack v. Norwegian American Line Agency, Inc., 318 F.2d 538, 542 (9 Cir. 1963); Roberts v. United States District Court, 339 U.S. 844 (1950). And review by mandamus is appropriate where a court's prospective appellate jurisdiction might otherwise be thwarted, as herein, by the action of the district court. See, Roche v. Evaporated Milk Ass'n., 319 U.S. 21 (1943); IBM v. Edelstein, 526 F.2d 37 (2 Cir. 1975). See, also, Will v. United States, 389 U.S. 90, at 95 (1967); LaBuy v. Howes Leather Co., 352 U.S. 249 (where a district judge displayed a persistent disregard of the Rules of Civil Procedure promulgated by the Supreme Court); McCullough v. Cosgrave, 309 U.S. 634; Los Angeles Brush Mfg. Corp. v. James, 272 U.S. 701, 707 (dictum).

The issues were timely presented for review in the Court of Appeals. They included the following issues presently before this Tribunal, numbered as found below on pages iv and v in the Consolidated Appeals Brief dated April 4, 1977 and hereinbelow reprinted for sequential clarity:

1. WHETHER THE CONSTITUTION OF THE UNITED STATES - AS THE ORGANIC LAW OF THE SOVEREIGN AND ITS INHERENT PREMISE OF PRESERVATION OF THE LIFE OF ITS PEOPLE - PROHIBITS A DISCREDITED FORMER VICE PRESIDENT OF THE UNITED STATES, A DISBARRED ATTORNEY AND CONVICTED FELON FROM DEALING WITH IMPUNITY OR PURSUANT TO EXEMPTION WITH FOREIGN POWERS; ESPECIALLY WHERE, IN THE VERY HIGHEST COUNCILS OF OUR GOVERNMENT, HE HAS BEEN PRIVY TO AND HAD ACCESS TO TOP SECRET AND CONFIDENTIAL INFORMATION, INCLUDING UNITED STATES MILITARY, NUCLEAR AND CONTINGENT PLANS RELATING TO NATIONAL DEFENSE OF THE UNITED STATES FOR MORE THAN FOUR YEARS.

2. WHETHER THE COURT BELOW COULD LAWFULLY IGNORE A JUDICIALLY-FOUND FRAUDULENT CONCEALMENT OF VALUABLE GIFTS FROM FOREIGN ARAB POTENTATES BY A PROBATIONER AT THE VERY TIME OF SENTENCING, ESPECIALLY WHERE THAT SAME PROBATIONER HAS NOTORIOUSLY ESPOUSED THE MILITARY, ECONOMIC AND PROPAGANDA INTERESTS OF THOSE SAME SECRET BENEFACTORS.

3. WHETHER THE COURT BELOW CAN LAWFULLY REFUSE TO HOLD A REVOCATION OF PROBATION HEARING OF A PROBATIONER WHO, OPENLY AND NOTORIOUSLY HAS PURSUED A SYSTEMATIC PRO-ARAB, ANTI-ISRAEL PROPAGANDA, ECONOMIC AND BUSINESS VENDETTA THROUGH NATIONAL PRESS AND ELECTRONIC MEDIA DURING THE TERMS OF HIS PROBATION - AND WHO, SIMULTANEOUSLY, HAS FAILED TO REGISTER AND DISCLOSE HIS MONETARY AND PERSONAL CONTRACTS FOR DOING SAME, ALL IN OPEN DEFIANCE OF THE FOREIGN AGENTS AND PROPAGANDIST STATUTE AND LAWS ENACTED THEREUNDER.

4. WHETHER THE COURT BELOW HAS THE JURISDICTION TO RENDER A WRITTEN OPINION ON THE VERY ISSUE OF REVOCATION OF PROBATION WHICH IS BEFORE THIS TRIBUNAL ON APPEAL.

5. (Omitted)

6. WHETHER THE COURT BELOW HAS LAWFULLY REFUSED TO HOLD HEARINGS UNDER OATH AND SUBJECT TO PERJURY OF DEFENDANT-PROBATIONER AND HIS CO-DEFENDANT ACCUSED OF CONSPIRING TO AND COMMITTING ACTS IN DEFIANCE OF THE SHERMAN AND CLAYTON ANTI-TRUST AND MONOPOLY STATUTES; AND REFUSING TO ELICIT TESTIMONY UNDER OATH FROM THE INDIVIDUAL PROBATIONER ON WHETHER SUCH ACTS CONSTITUTE VIOLATIONS OF TERMS OF HIS PROBATION IN THAT HE IS CONTINUALLY CHARGED THEREBY WITH VIOLATION OF STATE AND FEDERAL LAWS AND STATUTES, INCLUDING MANDATES OF A CRIMINAL AND PENAL NATURE.

7. WHETHER THE COURT BELOW, WHICH PLACED A CONVICTED FELON ON UNSUPERVISED PROBATION, PRESUMABLY IN ORDER TO ENHANCE THE TRANQUILITY AND PRESERVE THE SECURITY OF THE NATION, MAY CONTINUE TO TREAT SUCH A PROBATIONER, A FORMER VICE PRESIDENT OF THE UNITED STATES, A MERE PRIVATE CITIZEN SINCE HIS OCTOBER 10, 1973 FORCED RESIGNATION, WITH PREFERENTIAL STANDARDS VIOLATIVE OF DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW TO ALL OTHERS SIMILARLY SITUATE.

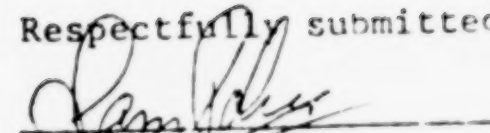
8. WHETHER THE COURT BELOW COULD LAWFULLY ABNEGATE ITS NON-DELEGABLE JURISDICTION BY ACCEPTING AND HOLDING A HEARING ON THE JUSTICE DEPARTMENT REPORT, WHICH TRANSPARENTLY EXHIBITED A STARTLING VIOLATION OF THE CONSTITUTIONAL SEPARATION OF POWERS MANDATE, HENCE WAS A LEGAL NULLITY, AND A CLEAR USURPATION BY THAT EXECUTIVE BRANCH OF THE JUDICIAL PREROGATIVES OF THE COURT.

This matter is a separable controversy collateral to the issue of the recovery of damages. This petition literally concerns the inherent sovereignty of the United States. Its determination may also serve to protect the Government against the disclosure of nuclear secrets by the disbarred attorney and former Executive who has been judicially found to have cheated his own Government for pecuniary gain; by the man who, in the very highest councils of our Government has been privy to and had access to Top Secret and Confidential information, including United States military, nuclear and contingent plans relating to National Defense of the United States of America from January 20, 1969 until October 10, 1973; and who, as a member of the Highest National Security Council during said period has been invested with secrets which could prove invaluable and priceless to foreign powers in a political, military, economic sense; e.g., awareness of where our secret supplies and depots of oil are and the quantity of same.

CONCLUSION

For the reasons above stated, a Writ of Certiorari or Writ of Mandamus should issue to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit, and the Order and Judgment of the United States District Court for the District of Maryland and for such other further and different relief as to this Court may seem appropriate.

Respectfully submitted,


SAM POLUR

DATED: June 18,
1977. Miami,
Florida 33132

Attorney Pro Se
600 Biscayne Boulevard
Miami, Florida 33132

CERTIFICATE OF SERVICE

Sam Polur, duly licensed Attorney at Law in the State of New York, affirms, under penalties of perjury that he has this date duly mailed copies of the within Petition and Appendix "A" and "B" to the following:

Court of Appeals
10 & Main Streets
Richmond, Va.

Hon. Roszele C. Thomsen
Senior Judge
United States District Court
Lombard Street
Baltimore, Maryland 21201

W. Lee Harrison, Esq.
Attorney for Spiro T. Agnew
& Education for Democracy, Inc.
401 Washington Ave.
Towson, Maryland

Hon. Paul R. Kramer Deputy U.S. Attorney United States Dist. Ct. Lombard St., Maryland (21201)	Hon. Richard L. Thornburgh Assistant Attorney General Criminal Division Department of Justice Washington, D.C. 20530
--	--

Three copies each of the foregoing were duly mailed, as above cited to each above address, June 22, 1977.

In the

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. _____

SAM POLUR,

Petitioner,

v

HONORABLE ROSZELE C. THOMSEN,
Respondent,

and

UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUITON WRIT OF CERTIORARI OR WRIT OF
MANDAMUS TO THE UNITED STATES COURT
OF APPEALS, AND TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
MARYLANDPETITION FOR CERTIORARI OR WRIT OF
MANDAMUS FILED MAY 20, 1977

APPENDIX "A"

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 77-1299

IN RE:

Sam Polur,

Petitioner.

ORDER

Upon consideration of the petitioner's petition for a rehearing for a peremptory writ in the nature of mandamus and a temporary stay, pro se,

IT IS ORDERED that the petition for rehearing is DENIED. Entered at the direction of Judge Butzner for a panel consisting of Judge Butzner, Judge Russell and Judge Field.

FILED

APR 21 1977

WILLIAM K. SLATE, II
CLERK

For the Court,

/s/ William K. Slate, II

CLERK

A True Copy, Teste:

William K. Slate, II, Clerk

Paul D. Smith

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 77-1299

In Re: Sam Polur, Petition.

Petition for a Peremptory Writ in the Nature of Mandamus and a Temporary Stay.

Submitted: March 14, 1977 Decided:
March 16, 1977.

Before BUTZNER and RUSSELL, Circuit Judges, and FIELD, Senior Circuit Judge.

Sam Polur, Esq., Petitioner Pro Se.

PER CURIAM:

Upon receipt of a report from the Department of Justice concerning Spiro T. Agnew, the District Court for the District of Maryland scheduled a hearing to consider the report and to determine whether a probation revocation hearing should be held. Sam Polur, Esq., appearing pro se, has petitioned for a writ of mandamus or a temporary stay to prohibit the court from holding the hearing until the Department or he, himself, conducts a more thorough investigation.

This court is not empowered either by 28 U.S.C. § 1292 or by its authority to issue writs of mandamus to review the interlocutory order of the district court scheduling the hearing about which the petitioner complains. *Will v. United States*, 389 U.S. 90 (1967); *Stans v. Gagliardi*, 485 F.2d 1290 (2d Cir. 1973).

The petition is denied, and this case is dismissed. The clerk is directed to issue the mandate forthwith.

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
UNITED STATES OF AMERICA :

v. : CRIMINAL NO.73-
SPIRO T. AGNEW : 0535

Filed March 22, 1977.

Paul R. Kramer, Deputy United States for
the District of Maryland, Baltimore, Maryland,
for the government.

W. Lee Harrison, Baltimore, Maryland,
for the defendant.

Thomsen, Senior District Judge

On October 10, 1973, Spiro T. Agnew, the defendant herein, entered a plea of nolo contendere to a one count criminal information charging him with evasion of federal income taxes in violation of 26 U.S.C. 7201. On the same day Judge Walter E. Hoffman, of the Eastern District of Virginia, sitting by designation, accepted that plea and imposed a sentence of \$10,000 fine and three years unsupervised probation. The plea was entered immediately after Agnew had resigned as Vice President of the United States. As part of an agreement leading to that resignation, the Attorney General recommended to Judge Hoffman in open court that no prison sentence be imposed.

On September 30, 1976, Sam Polur, a member of the bar of New York, residing in Florida, filed a civil action in this court against Agnew and Education for

Democracy, Inc., claiming substantial damages against each of them for alleged violations of several federal statutes. On October 5, 1976, Polur moved, in that civil action, for "an Order to Show Cause why Spiro T. Agnew should not have his probation revoked during the balance of the term thereof, prior to the expiration of the three year period of probation duly imposed upon the said Spiro T. Agnew by this Court on October 10, 1973." Polur based his motion on the allegations contained in his civil complaint, and an "attorney's affirmation" in support of his motion.

The civil case was routinely assigned to me, and on October 8, 1976, a hearing was held on that motion, attended, at the court's request, by Paul R. Kramer, the Deputy United States Attorney, and W. Lee Harrison, an attorney who appeared specially on behalf of Agnew. After hearing from Polur and the attorneys whom the court had requested to attend, the court read and filed the following statement:

"Sec. 3653 of Title 18, U.S.C., provides in pertinent part that at any time within the probation period, or within the maximum probation period permitted by §3651 (which is five years), the court for the district in which the probationer is being supervised may issue a warrant for his arrest for violation of probation occurring during the probation period.

Requests for such warrants are usually made by the probation officer who has supervision of the probationer or by the chief probation officer of the district. In the case of United States v. Spiro T. Agnew, however, Judge Hoffman did not require that the probationer be under supervision.

"Nevertheless, a court can act on information brought to its attention by the United States Attorney or other representative of the Department of Justice or by other sources.

"Plaintiff in this civil case has made allegations some of which, if proved in this case or otherwise shown to be true, might justify this court in taking appropriate action under §3653.

"At present, however, these are mere allegations withone exception -- the material contained in the recommendation of the Three Judge Panel and the opinion and order of the Court of Appeals of Maryland in the disciplinary proceedings brought against Spiro Agnew. That proceeding dealt with his activities before his conviction and therefore cannot be the basis for the revocation of probation which plaintiff seeks. See 18 U.S.C. 3653, summarized above.

"Moreover, the allegations are made by plaintiff in a civil action in which he seeks to obtain more than \$1 million in damages from the defendant Agnew. They are not supported by a convincing affidavit or affirmation.

"The court concludes that it should not take any action in the criminal case at this time, except to request the Department of Justice to investigate the allegations, if the Department has not already done so, and to recommend to this court whether the court should take any action in the criminal case, and if so what action."¹

1/ Polur took an appeal from that ruling in the civil case. No decision on that appeal has yet been rendered, but the appeal in the civil case does not require or justify this court to refrain from taking appropriate action in this criminal case.

This court received the report and recommendation of the Department of Justice on February 22, 1977. The report dealt with two groups of allegations made by Polur which, if shown to be true, might be appropriate grounds for revocation of probation. With respect to allegations that Agnew has failed to register as a foreign agent in connection with his work for Education for Democracy, Inc., the Department of Justice concluded, after meeting with Agnew, his attorney, and the Secretary-Treasurer of Education for Democracy, Inc., and after reviewing various corporate records, that "there was no reason to believe that Mr. Agnew, through Education for Democracy, has acted on behalf of or in the interest of any foreign principal in violation of the (Foreign Agents Registration) Act." With respect to allegations that Agnew failed to report or deliver to the State Department until April 1, 1974, a number of gifts which he had received from officials of foreign governments while he was Vice President, in violation of the Foreign Gifts and Declarations Act, the report concluded that although there had apparently been technical violations of the Act as a result of Agnew's delay in delivering to the State Department gifts received in 1971, "in view of the administrative rather than criminal background of the Act, it would be inappropriate to use the

quasi-criminal sanction of probation revocation in this case."²

Upon receipt of the Department of Justice report, Judge Hoffman and I discussed the situation and agreed that we should ask Chief Judge Haynsworth of the United States Court of Appeals for the Fourth Circuit whether Judge Hoffman or I should consider what if anything further should be done in in this criminal case. That request was made, and Judge Haynsworth notified me of his conclusion that I should handle the matter. Promptly thereafter I requested the probation office of this court to recommend whether Agnew should be charged with violation of his probation. The request was assigned to Deputy Chief Probation Officer Falconer. Polur has publicly charged that the report of the Department of Justice was a "Republic whitewash." The court asked both Falconer and Kramer to determine whether the report had been approved by any member of the staff of the new, Democratic, Attorney General. Both have reported that it was so approved.

On March 14, 1977, after notice to Agnew's attorney and to Polur, a hearing was held for the purpose of deciding whether any further proceedings with respect to possible revocation of Agnew's probation was warranted. Three days before that hearing Polur filed in the United States Court of Appeals for the Fourth Circuit a petition for a writ of mandamus

^{2/} A copy of that report is attached hereto as Appendix A.

or a temporary stay to prohibit this court from holding that hearing. The senior judge of the panel to which that petition was referred agreed that this court should hold the hearing, but should delay decision until the Fourth Circuit rendered its decision on Polur's petition. On March 16 the Fourth Circuit denied the petition and directed the clerk to issue the mandate forthwith.

At the March 14 hearing in this court, Kramer presented the report of the Department of Justice dated February 18, 1977, recommending that no action be taken to revoke Agnew's probation, and a supplementary report, dated March 14, setting out in detail how the report had been developed. Kramer joined in the recommendation. Falconer, on behalf of the Probation Department, after describing the investigation he had made, recommended "that no citation for alleged violation of probation be ordered by the court." The court gave Polur an opportunity to express his views, and he did. Harrison, the attorney for Agnew, also made a brief statement and submitted a series of letters exchanged among Agnew and his attorneys, the University of Maryland and the State Department, dealing with the gifts received by Agnew; those letters offer little if any help to the court in deciding the present question.

The court concludes, on the basis of the material submitted in this proceeding,

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that it should follow the recommendations of the Department of Justice and the Probation Office, and should not require Agnew to show cause why his probation should not be revoked.

s/ Roszele C. Thomsen

Senior United States
District Judge

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :

v. : CRIMINAL NO.

SPIRO T. AGNEW : 73-0535

- NOTICE OF HEARING -

On October 10, 1973, Spiro T. Agnew, the defendant herein, entered a plea of nolo contendere to one count of a criminal information charging him with evasion of federal income taxes in violation of 26 U.S.C. 7201. On the same day Judge Walter E. Hoffman, of the Eastern District of Virginia, sitting by designation, accepted that plea and imposed a sentence of a \$10,000 fine and three years unsupervised probation.

On September 30, 1976, Sam Polur, a member of the bar of New York, residing in Florida, filed a civil action in this court (T-76-1478) against Agnew and Education for Democracy, Inc., claiming substantial damages against each of them for alleged violations of several federal statutes. On October 5, 1976, Polur moved, in that civil case, for "an Order to Show Cause why Spiro T. Agnew should not have his probation revoked during the balance of the term thereof, prior to the expiration of the three year period of probation duly imposed upon the said Spiro T. Agnew by this Court on October 10, 1973." Polur based that motion on the allegations con-

tained in his civil complaint, and an "attorney's affirmation" in support of his motion.

The civil case was routinely assigned to me, and on October 8, 1976, a hearing was held on said motion, attended, at the court's request, by the Deputy United States Attorney and W. Lee Harrison, an attorney who appeared specially on behalf of Agnew. After hearing from Polur and the attorneys whom the court had requested to attend, the court read and filed the statement attached to this notice.

The court has now received the report and recommendations of the Department of Justice. A copy of that report is attached hereto, along with the letter of Deputy United States Attorney Kramer concurring in the report. Upon receipt thereof Judge Hoffman and I discussed the matter and agreed that we should ask Chief Judge Haynsworth of the United States Court of Appeals for the Fourth Circuit to decide whether Judge Hoffman or I should consider what if anything further should be done in this criminal case. Judge Haynsworth has now notified me of his conclusion that I should handle the matter.

Accordingly, this court has scheduled a hearing, at which the report of the Department of Justice will be considered and the court will decide whether a proba-

tion revocation hearing should be held. That hearing will be held on Monday, March 14, 1977, at 10 A.M., in courtroom 7B at the United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201.

s/Roszele C. Thomsen
United States District
Judge

March 3, 1977

copies to -

Paul R. Kramer, Esq., Deputy United States
Attorney
W. Lee Harrison, Esq.
Mr. Francis P. Tunney, Chief U.S. Probation
Officer
Sam Polur, Esq.

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SAM POLUR :
v. : CIVIL NO.
SPIRO T. AGNEW and : T-76-1478
EDUCATION FOR DEMOCRACY, INC. :

Sam Polur, pro se.
W. Lee Harrison, appearing specially, for
Spiro T. Agnew

- - -

See, text of this opinion and
order as reprinted in full in the March
22, 1977 opinion and order of Judge
Thomsen, pages A-5 to A-7, supra.

(Opinion and Order of October
8, 1976, Thomsen, Senior District
Judge.)

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APPENDIX A

22 § 601

FOREIGN RELATIONS

Ch. 11

CHAPTER 11.—FOREIGN AGENTS AND PROPAGANDA

§ 611. Definitions

As used in and for the purposes of this subchapter—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party;

(2) an individual affiliated or associated with, or supervised, directed, controlled, financed, or subsidized, in whole or in part, by any foreign principal defined in clause (1) of this subsection;

(3) a person outside of the United States, unless it is established that such person is an individual and is a citizen of and domiciled within the United States or that such person is not an individual, is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States, and has its principal place of business within the United States. Nothing in this clause shall limit the operation of clause (5) of this subsection;

(4) a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(5) a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any foreign principal defined in clause (1), (3), or (4) of this subsection;

(6) A domestic partnership, association, corporation, organization, or other combination of individuals, supervised, directed, controlled, or financed, in whole or in substantial part, by any foreign government or foreign political party;

(c) Except as provided in subsection (d) of this section, the term "agent of a foreign principal" includes—

(1) any person who acts or agrees to act, within the United States, as, or who is or holds himself out to be whether or not pursuant to contractual relationship, a public-relations counsel, publicity agent, information-service employee, servant, agent,

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representative, or attorney for a foreign principal;

(2) any person who within the United States collects information for or reports information to a foreign principal; who within the United States solicits or accepts compensation, contributions, or loans, directly or indirectly, from a foreign principal; who within the United States solicits, disburses, dispenses, or collects compensation, contributions, loans, money, or anything of value, directly or indirectly, for a foreign principal; who within the United States acts at the order, request, or under the direction, of a foreign principal;

(3) any person who assumes or purports to act within the United States as an agent of a foreign principal in any of the respects set forth in clauses (1) and (2) of this subsection;

(4) any person who is an officer or member of the active or reserve military, naval, or other armed forces of any foreign principal defined in clause (1) of subsection (b) of this section, or who is an officer of or employed by any such foreign principal; and proof of any affiliation or employment, specified in this clause, of any person within a period of five years previous to the effective date of this subchapter shall create a rebuttable presumption that such person is an agent of a foreign principal; and

(5) Repealed. Aug. 1, 1956, c. 849, § 1, 70 Stat. 899.

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the Postmaster General a sworn statement in compliance with section 233 of Title 39, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in clause (1), (2), or (4) of subsection (b) of this section, or by any agent of a foreign principal required to register under this subchapter;

(e) The term "government of a foreign country" includes any person or groups of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any matter pertaining to political or public interests, policies, or relations;

(h) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j) The term "political propaganda" includes any oral, visual,

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graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this subsection the term "disseminating" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;

(k) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 612(a) of this title, and any supplements thereto required to be filed under section 612(b) of this title, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) The term "American republic" includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

(m) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States;

(n) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and,

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in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter. June 8, 1938, c. 327, § 1, 52 Stat. 631; Aug. 7, 1939, c. 521, § 1, 53 Stat. 1244; Apr. 29, 1942, c. 263, § 1, 56 Stat. 248; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Sept. 23, 1950, c. 1024, Title I, § 20(a), 64 Stat. 1005; Aug. 1, 1956, c. 849, § 1, 70 Stat. 899; Oct. 4, 1961, Pub.L. 87-366, § 1, 75 Stat. 784.

§ 612. Registration statement; filing; contents

(a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by this section and subsection (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who is an agent of a foreign principal on the effective date of this subchapter shall, within ten days thereafter and every person who becomes an agent of a foreign principal after the effective date of this subchapter shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath, on a form prescribed by the Attorney General, of which one copy shall be transmitted promptly by the Attorney General to the Secretary of State for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this subchapter. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming or acting as such agent, continue from day to day, and discontinuance of such activity shall not relieve such agent from his obligation to file a registration statement for the period during which he acted within the United States as an agent of a foreign principal. The registration statement shall include the following, which shall be regarded as material for the purposes of this subchapter:

(1) Registrant's name, principal business address, and all

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other business addresses in the United States or elsewhere, and all residence addresses, if any;

(2) Status of the registrant; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each, unless, and to the extent, this requirement is waived in writing by the Attorney General; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form

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and time of each such payment and from whom received;

(6) A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder;

(7) The name, business, and residence addresses, and, if an individual, the nationality, of any person who has within the preceding sixty days contributed or paid money or anything of value to the registrant in connection with any of the activities referred to in clause (6) of this subsection and the amount or value of the same;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in any way in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subchapter as the Attorney General, having due regard for the national security and the public interest, may from time to time require;

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) Every agent of a foreign principal who has filed a registration statement required by subsection (a) of this section shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' pe-

riod such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), (6), and (9) of subsection (a) of this section, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this subchapter, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(e) If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of sections 14-17 of Title 18, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in

the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said sections. June 8, 1938, c. 327, § 2, 52 Stat. 632; Apr. 29, 1942, c. 263, § 2, 56 Stat. 251; Aug. 3, 1950, c. 524, § 1, 64 Stat. 399.

§ 613. Exemptions

The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Any person engaging or agreeing to engage only in private and nonpolitical financial or mercantile activities in furtherance of the bona fide trade or commerce of such foreign principal or in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and

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clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445 and 447-457 of this title, and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee. June 8, 1938, c. 327, § 3, 52 Stat. 632; Aug. 7, 1939, c. 521, § 2, 53 Stat. 1245; Apr. 29, 1942, c. 263, § 3, 56 Stat. 254; Oct. 4, 1961, Pub.L. 87-366, § 2, 75 Stat. 784.

§ 614. Filing and labeling of political propaganda

(a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter and who transmits or causes to be transmitted in the

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United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, send to the Librarian of Congress two copies thereof and file with the Attorney General one copy thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth that the person transmitting such political propaganda or causing it to be transmitted is registered under this subchapter with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of each of his foreign principals; that, as required by this subchapter, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the subchapter does not indicate approval by the United States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) The copies of political propaganda required by this subchapter to be sent to the Librarian of Congress shall be available for public inspection under such regulations as he may prescribe.

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(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of Title 19 and of all foreign prints excluded from the mails under authority of section 343 of Title 18.

Notwithstanding the provisions of section 1305 of Title 19 and of section 343 of Title 18, the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress. June 8, 1938, c. 327, § 4, 52 Stat. 632; Aug. 7, 1939, c. 521, § 3, 53 Stat. 1246; Apr. 29, 1942, c. 263, § 1, 56 Stat. 255.

§ 615. Books and records

Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this subchapter, as the Attorney General, having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section. June 8, 1938, c. 327, § 5, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256.

§ 616. Public examination of official records

The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter. June 8, 1938, c. 327, § 6, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256.

§ 617. Liability of officers

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614(a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to

prosecution therefor. June 8, 1938, c. 327, § 7, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256; Aug. 3, 1950, c. 524, § 2, 64 Stat. 400.

§ 618. Enforcement and penalties

(a) Any person who—

(1) willfully violates any provision of this subchapter or any regulation thereunder, or

(2) in any registration statement or supplement thereto or in any statement under section 614(a) of this title concerning the distribution of political propaganda or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(b) In any proceeding under this subchapter in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

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(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to deportation in the manner provided by sections 1251-1253 of Title 8.

(d) The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 611 (j) of this title in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal

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thereto be stopped.

(e) Failure to file any such registration statement or supplements thereto as is required by either section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary. June 8, 1938, c. 327, § 8, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257, and amended Sept. 23, 1950, c. 1024, Title I, § 20, 64 Stat. 1005; June 27, 1952, c. 477, Title IV, § 402(d), 66 Stat. 414; Aug. 1, 1956, c. 849, § 1, 70 Stat. 899.

§ 619. Territorial applicability of subchapter

This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States. June 8, 1938, c. 327, § 9, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257, and amended Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.

§ 620. Rules and regulations

The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter. June 8, 1938, c. 327, § 10, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257.

§ 621. Reports to Congress

The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this subchapter, including the nature, sources, and content of political propaganda disseminated or distributed. June 8, 1938, c. 327, § 11, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 258.

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